UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
VU, THONG H

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ЭС

	Application No.	Applicant(s)
Office Action Summary	10/053,827	CHANG ET AL.
	Examiner	Art Unit	
	Thong H Vu	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>14 February 2005</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>8-10,39-41 and 62-71</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>8-10,39-41 and 62-71</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

     1.☐ Certified copies of the priority documents have been received.

     2.☐ Certified copies of the priority documents have been received in Application No. _____.

     3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   Amended claims 8-10,39-41 and new claims 62-71 are pending.

Response to Arguments

2.   Applicant's arguments, see page 9, filed 2/14/05, with respect to The Double

Patenting rejection under 35 U.S.C. §101 have been fully considered and are

persuasive. The Double Patenting rejection under U.S.C. §101 of claims 1-61 has been

withdrawn.

3.   Applicant's arguments filed 2/14/05 have been fully considered but they are not

persuasive to overcome the Non Statutory Double Patenting rejection. Claims 8-10,39-

41 have been amended and disclosed the common subject matter.

Double Patenting

4.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be
used to overcome an actual or provisional rejection based on a nonstatutory double
patenting ground provided the conflicting application or patent is shown to be commonly
owned with this application. See 37 CFR 1.130(b).
        Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

Claims 1-61 are rejected under the judicially created doctrine of double patenting

over claims 1-36 of U. S. Patent No. 6,381,633 B1 since the claims, if allowed, would

improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the

patent and is covered by the patent since the patent and the application are claiming

common subject matter, as follows:

(Patent '633. Claim 1) A method for managing messaging platforms on a messaging network, the method comprising:

maintaining a messaging platform profile for a messaging platform on the messaging network in <u>a master profile table, said messaging platform profile including a host ID unique to said messaging platform, an area of operation, an operational status defining the operational state of said messaging platform, and a token pool</u> including at least one token to measure the cost of message delivery;

<u>storing a version of said master profile table in a global profile table held by each messaging platform</u> on the messaging network; monitoring a messaging platform on the messaging network; <u>updating said master profile table</u> in response to said step of monitoring;

updating said global profile table held by each messaging platform in response to said step of updating said master profile table, ensuring version consistency between said master profile table and each of said global profile tables;

using <u>said operational status to determine whether a messaging platform may request delivery of a user message via the messaging network</u> at an area of operation supported by <u>a remote messaging platform.</u>

(claim 12) sending a message to a messaging platform on the messaging network that <u>fails to send a message within said selected interval.</u>

(claim 6) a specified number of tokens when said <u>token pool falls below a selected threshold.</u>

(Application, Claim 39) A system for maintaining a messaging network having at least one messaging platform, the system comprising:

<u>a master platform having a master global routing table which holds a messaging platform entry for each messaging platform on the messaging network, each messaging platform entry in said master global routing table having a host ID, an area of operation, an operational status, and a token pool;</u>

wherein <u>said master platform is configured to respond to each messaging platform on the messaging network that sends a response message to said master platform, said response message sent by each messaging platform at a selected interval which is defined in the messaging platform entry corresponding to each messaging platform</u> query message to a messaging platform on the messaging network that fails to send a response message to the master platform within said selected interval;

wherein said master platform is further configured to <u>update said operational status</u> of said messaging platform entry to a disabled status, said messaging platform entry corresponding to said messaging platform in said master global routing table and said global routing table of each messaging platform on the messaging network, <u>if said messaging platform fails to respond to said query message;</u> and

wherein a messaging platform on the network is configured to check said operational status of a remote messaging platform to determine whether said messaging platform may send a user message using the messaging network to wherein said master platform is further configured to send a remote messaging platform for to delivery to an area of operation supported by said remote messaging platform.

(claim 62) <u>send a second message type to a messaging device on the messaging network that fails to send the first message type to the master device within the predetermined interval.</u>

(claim 41) <u>a token pool amount that falls below a selected threshold.</u>

Furthermore, there is no apparent reason why applicant was prevented from

presenting claims corresponding to those of the instant application during prosecution of

the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158

USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 39-41,70-71 are rejected under 35 U.S.C. § 103 as being unpatentable

over Vaudreuil [5,621,727] in view of Guay et al [guay 5,852,818].

As per claim 39, Vaudreuil discloses A system for maintaining a messaging

network having at least one messaging platform [Vaudreuil, a messaging system24, Fig

1], the system comprising:

a master platform having a master global routing table [Vaudreuil, a master

database, col 17 lines 30-38 et seq.] which holds a messaging platform entry for each

messaging platform on the messaging network, each messaging platform entry in said

master global routing table having a host ID [Vaudreuil, network addresses, col 21 lines

27-48], an area of operation [Vaudreuil, an appropriate domain within Internet, col 35

lines 22-42], an operational status [Vaudreuil, status of messages, col 7 lines 15-32;

status information on messaging traffic, col 27 lines 1-67];

a global routing table for each messaging platform [Vaudreuil, a master database

provides information services, col 9 lines 36-col 10 line 12, a master database, col 17

lines 30-38], wherein said global routing table holds a messaging platform entry for each

messaging platform on the messaging network, each messaging platform entry having a

host ID, an area of operation, an operational status [Vaudreuil, status of messages, col

7 lines 15-32; status information on messaging traffic, col 27 lines 1-67];

wherein said master platform is configured to respond to each messaging

platform on the messaging network that sends a response message to said master

platform, said response message sent by each messaging platform at a selected

interval [Vaudreuil, a predetermined amount of time, col 11 lines 26-46; scheduled, col

16 lines 13-52] which is defined in the messaging platform entry corresponding to each

messaging platform [Vaudreuil, responsive to the needs of a destination messaging

system, col 19 lines 55-67; respond with information from user's profile, col 29 lines 1-

22];

query message to a messaging platform on the messaging network that fails to

send a response message to the master platform within said selected interval

[Vaudreuil, failed to support of that feature, col 23 lines 64-col 24 line 25];

wherein said master platform is further configured to update said operational

status of said messaging platform entry to a disabled status, said messaging platform

entry corresponding to said messaging platform in said master global routing table and

said global routing table of each messaging platform on the messaging network, if said

messaging platform fails to respond to said query message [Vaudreuil, status of

messages, col 7 lines 15-32; status information on messaging traffic, col 27 lines 1-67;

disabled or the failed messaging system, col 28 lines 13-23]; and

wherein a messaging platform on the network is continued to check (i.e.: monitor)

said operational status of a remote messaging platform to determine whether said

messaging platform may send a user message using the messaging network

[Vaudreuil, the network center monitors the network operation, col 4 lines 36-50] to

wherein said master platform is further configured to send a remote messaging platform

for to delivery to an area of operation supported by said remote messaging platform

[Vaudreuil, remote network hub, col 16 line 53-col 17 line 8].

However Vaudreuil does not detail the global routing table or global database

hold a message entry includes a token pool;

It was well-known in the messaging system art that the status message included

a token pool as taught by Bohm [Bohm, status messages and a token pool, col 14 lines

18-22; col 19 lines 3-12];

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to incorporate the technique of using a token pool as a

portion of the network message information as taught by Bohm into the Vaudreuil's

apparatus in order to utilize the status message. Doing so would provide a security and

reliable to control the messaging distribution over a global network.

6.   As per claim 40, Vaudreuil-Bohm disclose wherein said master platform provides

said token pool of each messaging platform with an initial amount of tokens; said master

platform debits a debit amount from a token pool of an originating messaging platform that requests delivery of a user message at an area of operation supported by a remote messaging platform; and said master platform increments a credit amount to a token pool of said remote messaging platform in response to the delivery of said user message within said area of operation by said remote messaging platform [Bohm, status messages and a token pool, col 14 lines 18-22; col 19 lines 3-12].

7.   As per claim 41, Vaudreuil-Bohm disclose wherein said master platform updates a messaging platform profile of a messaging platform to have a disabled operation status [Vaudreuil, updated status, col 27 line 65-col 28 line 12; disabled or the failed messaging system, col 28 lines 13-23] in response to said messaging platform having a token pool amount that falls below a selected threshold [Bohm, status messages and a token pool, col 14 lines 18-22; col 19 lines 3-12].

8.   As per claim 70, Vaudreuil-Bohm disclose each of the plurality of messaging devices has an initial amount of tokens in a token pool associated with the respective messaging device, the master device being further configured to debit a debit amount of tokens from the token pool of a first messaging device that requests delivery of a user message at an area of operation supported by a second messaging device and to add a credit amount of tokens to the token pool of the second messaging device in response to the delivery of the user message within the area of operation by the second

messaging device [Bohm, status messages and a token pool, col 14 lines 18-22; col 19

lines 3-12].

9.   As per claim 71, Vaudreuil-Bohm disclose the master device updates a

messaging device profile of a predetermined one of the plurality of messaging devices

[Vaudreuil, responsive to the needs of a destination messaging system, col 19 lines 55-

67; respond with information from user's profile, col 29 lines 1-22].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-10; 62-69 are rejected under 35 U.S.C. § 103 as being anticipated by

Vaudreuil [5,621,727].

10.   As per claim 62, Vaudreuil discloses A system for maintaining a messaging

network having a plurality of messaging devices, comprising:

a master device having a master global routing data structure with a messaging

device data entry for each of the plurality of messaging devices on the messaging

network, each messaging device data entry including a host ID and an operational

status;

wherein the master device is configured to respond to each messaging device on

the messaging network that sends a first message type within a predetermined interval

[Vaudreuil, a master database, col 17 lines 30-38; message type, col 21 lines 27-47;col

26 lines 1-38];

wherein the master device is configured to send a second message type to a

messaging device on the messaging network that fails to send the first message

type to the master device within the predetermined interval [Vaudreuil, email facility,

voice mail facility, facsimile facility, col 4 line 51-col 5 line 26; failed to support of that

feature, col 23 lines 64-col 24 line 25; a predetermined amount of time, col 11 lines 26-

46; scheduled, col 16 lines 13-52]; and

wherein the master device is further configured to alter the operational status of

the messaging device entry to a disabled status if the messaging device fails to respond

to the second message type [Vaudreuil, failed to support of that feature, col 23 lines 64-

col 24 line 25; disable the failed messaging system, col 28 lines 13-23].

11.   As per claim 63, Vaudreuil discloses the predetermined interval is defined in the

messaging device data entry corresponding to each of the plurality of messaging

devices [Vaudreuil, a predetermined amount of time, col 11 lines 26-46; scheduled, col

16 lines 13-52].

12.   As per claim 64, Vaudreuil discloses a first messaging device on the network is

configured to check the operational status of a second messaging device to determine

whether the first messaging device may send a user message using the messaging

network to the second messaging device [Vaudreuil, email facility, voice mail facility,

facsimile facility, col 4 line 51-col 5 line 26].

13.   As per claim 65, Vaudreuil discloses an operational area data entry for each of

the plurality of messaging devices in the master global routing data structure [Vaudreuil,

entries, col 14 lines 44-57].

14.   As per claim 66, Vaudreuil discloses a first messaging device on the network is

configured to check the operational area of a second messaging device to determine

whether the first messaging device may send a user message using the messaging

network to the second messaging device for to delivery to an area of operation

supported by the second messaging device [Vaudreuil, email facility, voice mail facility,

facsimile facility, col 4 line 51-col 5 line 26].

15.   As per claim 67, Vaudreuil discloses a global routing data structure Vaudreuil, a

master database, col 17 lines 30-38 et seq.] associated with each of the plurality of

messaging devices, the global routing data structure having a messaging device data

entry for each of the plurality of messaging devices on the messaging network, each

messaging device data entry comprising a host ID, and an operational status [Vaudreuil,

network addresses, col 21 lines 27-48; an appropriate domain within Internet, col 35

lines 22-42]; status of messages, col 7 lines 15-32; status information on messaging

traffic, col 27 lines 1-67].

16.   As per claim 68, Vaudreuil discloses the master device is further configured to

update the operational status of messaging device data entries of the global routing

data structure associated with each of the plurality of messaging devices [Vaudreuil,

updated status, col 27 line 65-col 28 line 12; disabled or the failed messaging system,

col 28 lines 13-23].

17.   As per claim 69, Vaudreuil discloses the master device alters the operational

status of a messaging device data entry for a predetermined one of the plurality of

messaging devices in the global routing data structure associated with each of the

plurality of messaging devices to a disabled status if the predetermined messaging

device fails to respond to the second message type [Vaudreuil, updated status, col 27

line 65-col 28 line 12; disabled or the failed messaging system, col 28 lines 13-23].

18.   Claims 8-10 contain the similar limitations set forth of apparatus claims 62-69.

Therefore, claims 8-10 are rejected for the similar rationale set forth in claims 62-69.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to examiner Thong Vu, whose telephone number is (571)-
272-3904. The examiner can normally be reached on Monday-Thursday from 8:00AM-
4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the organization where this application or proceeding is assigned is 703-872-9306

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
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Art Unit 2142